

HOUSE BILL 621

M4

0lr1072

By: **Delegates Frush, Barnes, and Hubbard**
Introduced and read first time: February 3, 2010
Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Agriculture – Commercial Fertilizer – Surcharge**

3 FOR the purpose of imposing a surcharge at a certain rate on each ton of certain
4 commercial fertilizer distributed in the State; exempting certain low
5 phosphorous fertilizer from the surcharge; requiring distributors to pay the
6 surcharge before distributing certain commercial fertilizer in the State;
7 requiring the State Department of Agriculture to distribute the revenue from
8 the surcharge to a certain special fund; and generally relating to a surcharge on
9 certain commercial fertilizer.

10 BY repealing and reenacting, without amendments,
11 Article – Agriculture
12 Section 6–201(a), (f), and (p)
13 Annotated Code of Maryland
14 (2007 Replacement Volume and 2009 Supplement)

15 BY repealing and reenacting, with amendments,
16 Article – Agriculture
17 Section 6–204, 6–207, and 6–208
18 Annotated Code of Maryland
19 (2007 Replacement Volume and 2009 Supplement)

20 BY repealing and reenacting, with amendments,
21 Article – Natural Resources
22 Section 8–2A–02
23 Annotated Code of Maryland
24 (2007 Replacement Volume and 2009 Supplement)

25 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
26 MARYLAND, That the Laws of Maryland read as follows:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.



1 **Article – Agriculture**

2 6–201.

3 (a) In this subtitle the following words have the meanings indicated.

4 (f) “Commercial fertilizer” means any substance containing a recognized
5 plant nutrient used for its plant nutrient content and designed for use or claimed to
6 have value in promoting plant growth, except unmanipulated animal and vegetable
7 manure, marl, lime, wood ashes, and gypsum.

8 (p) “Low phosphorous fertilizer” means fertilizer:

9 (1) Containing not more than 5% of available phosphoric acid (H_3PO_4);
10 and11 (2) That has an application rate not to exceed 0.25 pound of available
12 phosphoric acid (H_3PO_4)/1,000 square feet/application and 0.5 pound of available
13 phosphoric acid (H_3PO_4)/1,000 square feet/year.

14 6–204.

15 (A) Any registration or inspection fee, and penalty shall constitute a special
16 fund to be used only to defray partially the cost of inspection, sampling, analysis, and
17 other expenses necessary for administering this subtitle. Notwithstanding any other
18 provisions of this Code, any unexpended funds up to a maximum of \$100,000 may not
19 revert to the General Fund of the State at the end of the fiscal year.20 (B) **THE DEPARTMENT SHALL REMIT THE COMMERCIAL FERTILIZER**
21 **SURCHARGE IMPOSED UNDER § 6–208(C) OF THIS SUBTITLE TO THE**
22 **CHESAPEAKE AND ATLANTIC COASTAL BAYS 2010 TRUST FUND UNDER §**
23 **8–2A–02 OF THE NATURAL RESOURCES ARTICLE.**

24 6–207.

25 (a) Except as provided in subsection (d) of this section, a distributor shall
26 register each brand and grade of commercial fertilizer and each product name of soil
27 conditioner before distributing it in the State and shall pay the registration fee **AND**
28 **ANY COMMERCIAL FERTILIZER SURCHARGE REQUIRED UNDER § 6–208(C) OF**
29 **THIS SUBTITLE.**30 (b) The registration application shall be accompanied by a label or other
31 printed matter describing the product, if requested by the Secretary. The application
32 shall be submitted on forms furnished by the Secretary. Upon the Secretary’s
33 approval, a copy of the registration shall be furnished to the applicant.

34 (c) Each registration expires January 31 each year.

1 (d) (1) Provided the product label has not been altered or changed, a
2 distributor shall not be required to register any brand and grade of commercial
3 fertilizer or product name of soil conditioner which has been registered under this
4 subtitle by another person.

5 (2) A distributor shall not be required to register a commercial
6 fertilizer mixed or blended according to a formula furnished by a consumer, but he
7 shall label the fertilizer in the order and form provided in § 6-210(c) of this subtitle.
8 However, any fertilizer mixed in advance of receipt of the customer's specific order
9 shall be registered.

10 6-208.

11 (a) For each brand and grade of commercial fertilizer and for each soil
12 conditioner distributed in the State, the annual registration fee is \$15 and the annual
13 inspection fee is 25 cents per ton except:

14 (1) For each brand and grade of commercial fertilizer and each soil
15 conditioner distributed in packages of 10 pounds or less, the annual registration fee is
16 \$30, notwithstanding any other registration or inspection fee; and

17 (2) For each brand and grade of commercial fertilizer and each soil
18 conditioner distributed in packages of 10 pounds or less and in packages over 10
19 pounds, the annual \$30 registration fee applies, and only the portion distributed in
20 packages over 10 pounds is subject to the inspection fee of 25 cents per ton.

21 (b) (1) Mixed-to-order, buyer's mixture, or custom-mix fertilizer is
22 exempted from the registration fee, but the inspection fee shall be paid.

23 (2) Distribution of fertilizer materials to manufacturers or exchange
24 between them is exempted.

25 **(C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS**
26 **SUBSECTION, IN ADDITION TO THE REGISTRATION AND INSPECTION FEES**
27 **UNDER THIS SUBTITLE, THERE IS A COMMERCIAL FERTILIZER SURCHARGE**
28 **IMPOSED ON EACH TON OF COMMERCIAL FERTILIZER DISTRIBUTED IN THE**
29 **STATE.**

30 **(2) THE RATE OF THE COMMERCIAL FERTILIZER SURCHARGE IS**
31 **\$5 FOR EACH TON OF COMMERCIAL FERTILIZER DISTRIBUTED IN THE STATE.**

32 **(3) THE COMMERCIAL FERTILIZER SURCHARGE MAY NOT BE**
33 **IMPOSED ON LOW PHOSPHOROUS FERTILIZER.**

1 8-2A-02.

2 (a) There is a Chesapeake and Atlantic Coastal Bays 2010 Trust Fund.

3 (b) The purpose of the Fund is to provide financial assistance necessary to
4 advance Maryland's progress in meeting the goals established in the Chesapeake 2000
5 Agreement for the restoration of the Chesapeake Bay and its tributaries, including the
6 Patuxent River, and to restore the health of the Atlantic Coastal Bays and their
7 tributaries, by focusing limited financial resources on nonpoint source pollution control
8 projects in all regions of the State.

9 (c) The Secretary shall administer the Fund.

10 (d) (1) The Fund is a special, nonlapsing fund that is not subject to §
11 7-302 of the State Finance and Procurement Article.

12 (2) The Treasurer shall hold the Fund separately, and the Comptroller
13 shall account for the Fund.

14 (e) The Fund consists of:

15 (1) Money appropriated in the State budget for the Fund;

16 (2) Money distributed to the Fund under §§ 2-1104 and 2-1302.1 of
17 the Tax – General Article; [and]

18 **(3) THE COMMERCIAL FERTILIZER SURCHARGE DISTRIBUTED TO**
19 **THE FUND UNDER § 6-204(B) OF THE AGRICULTURE ARTICLE; AND**

20 **[(3)] (4)** Any other money from any other source accepted for the
21 benefit of the Fund.

22 (f) (1) The Fund may be used only for the implementation of nonpoint
23 source pollution control projects to achieve the State's tributary strategy developed in
24 accordance with the Chesapeake 2000 Agreement and to improve the health of the
25 Atlantic Coastal Bays and their tributaries.

26 (2) It is the intent of the General Assembly that, when possible,
27 moneys in the Fund shall be granted to local governments and other political
28 subdivisions for agricultural, forestry, stream and wetland restoration, and urban and
29 suburban stormwater nonpoint source pollution control projects.

30 (g) (1) The Treasurer shall invest the money of the Fund in the same
31 manner as other State money may be invested.

32 (2) Any investment earnings of the Fund shall be retained to the
33 credit of the Fund.

1 (h) Money expended from the Fund for the restoration of the Chesapeake and
2 Atlantic Coastal Bays and their tributaries, including the Patuxent River, is
3 supplemental to and is not intended to take the place of funding that otherwise would
4 be appropriated for bay restoration.

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
6 October 1, 2010.